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Uniting our strengths: Enhancing United Nations support for the rule of law

Report of the Secretary-General

Summary

In 2004, I articulated a common language of justice for the United Nations, incorporating concepts of "justice", "rule of law" and "transitional justice". Since my report, there have been important and positive developments. At the 2005 World Summit, Member States reaffirmed their commitment to an international order based on the rule of law and international law, stating that it was essential for peaceful coexistence and cooperation among States. Rule of law and transitional justice issues are now being consistently integrated into the strategic and operational planning of new peace operations and Member States now almost universally recognize the establishment of the rule of law as an important aspect of peacekeeping. As a result, the Security Council is increasingly engaged in including human rights and the reform of policing, judicial, penal and legal systems in mandates.

Supporting Member States to strengthen the rule of law is a key part of the work of the Organization and the basis for action to ensure "freedom from want" and "freedom from fear", as outlined in my report "In larger freedom: towards development, security and human rights for all". While the Organization has been actively involved in providing such support, much remains to be done with regard to our capacities, coherence and coordination.

The centrality of rule of law to the work of the Organization has resulted in many United Nations departments, funds and programmes becoming engaged in a wide range of rule of law activities. Indeed, since my report in 2004, additional actors have joined the rule of law field, with United Nations and non-United Nations actors developing and implementing training and reform programmes, criminal justice strategies, guidelines and manuals, sometimes in coordination, sometimes not. These efforts notwithstanding, the dedicated capacities of the Organization remain shallow, both at Headquarters and in the field. The needs are particularly acute with

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regard to our rule of law and transitional justice expertise in conflict and post-conflict societies, in which only a small number of Headquarters staff are assigned. With limited staff and resources, the Organization has, inevitably, turned to non-United Nations actors for assistance. Though external expertise is extremely valuable, chronic outsourcing undermines any attempt at building and retaining institutional memory and dedicated expertise within the United Nations.

The Organization needs to deepen and rationalize its rule of law work, strengthen its capacities, enhance its institutional memory and coordinate more effectively within the United Nations and with outside actors. To achieve these objectives, a division of labour is being established among the key United Nations actors. To ensure better coordination and adequate capacities across the system, lead entities, designated in accordance with their mandates, will assume clearly defined responsibilities for specific areas of rule of law activities. Lead entities will be obligated to take action to ensure that required capacities exist upon which the whole system can draw. The designation of lead entities is intended to ensure a much higher degree of coherence, predictability and accountability in the delivery of rule of law assistance to Member States.

In addition, to help ensure overall coordination among the lead entities and other actors, at both the global and the country level, I have decided to establish a Rule of Law Coordination and Resource Group within the Secretariat. This Group, chaired by the Deputy Secretary-General, will be the focal point for coordinating system-wide rule of law activities so as to ensure quality control and greater policy coherence and coordination. The Group, which will be supported by a small secretariat unit, will act as a repository of rule of law materials, expert rosters, web resources and best practices, in close cooperation with the relevant lead entities. The Group will also give consideration to recommending the establishment of a rule of law trust fund.

The Rule of Law Coordination and Resource Group will also lead a consultative process with relevant partners, first and foremost Member States. This will identify priority gaps in capacity of the United Nations that need to be filled in the rule of law area and recommend where, and by when, these capacities should be established.

I. Introduction

1. On 6 October 2004, the Security Council held a meeting to discuss "Justice and the rule of law: the United Nations role" and my report of 23 August 2004, entitled "The rule of law and transitional justice in conflict and post-conflict societies" (S/2004/616). In a statement made on behalf of the Security Council at the conclusion of the meeting, the President stressed the importance and urgency of the restoration of justice and the rule of law in post-conflict societies, not only to come to terms with past abuses, but also to promote national reconciliation and to help prevent a return to conflict (see S/PRST/2004/34). The Security Council later requested the Secretariat to make proposals for implementing the recommendations, set out in paragraph 65 of my report, aimed at strengthening the efforts of the United Nations system to address rule of law and transitional justice issues in conflict and post-conflict societies. On 22 June 2006, the Security Council met to discuss "Strengthening international law: rule of law and maintenance of international peace and security", and, in a presidential statement, reiterated the need for the Secretariat to provide proposals (S/PRST/2006/28).

2. The present report will address the request for proposals for enhancing United Nations-system arrangements for supporting the rule of law and transitional justice in conflict and post-conflict societies (S/2004/616, para. 65 (a)) and other considerations set out in my report (paras. 65 (b)-(j)) in a broader context. This is because strengthening rule of law capacities, coherence and coordination is also undertaken in States where the United Nations does not deploy peace or political operations. Thus, this report will make recommendations intended to bring clarity and coherence to the Organization's overall approach to its rule of law activities and assistance.

3. In my report entitled "In larger freedom: towards development, security and human rights for all" (A/59/2005, para. 137), I indicated my intention to create a dedicated Rule of Law Assistance Unit, drawing heavily on existing staff within the United Nations system, in the proposed Peacebuilding Support Office, to assist national efforts to re-establish the rule of law in conflict and post-conflict societies. Subject to a report, the 2005 World Summit Outcome supported the idea of establishing an assistance unit so as to strengthen United Nations activities to promote the rule of law, including through technical assistance and capacity-building (resolution 60/1, para. 134 (e)), and the presidential statement of the Security Council of 22 June 2006 expressed the support of the Council for the idea. On 4 December 2006, the General Assembly at its sixty-first session adopted a resolution that also included support for a dedicated rule of law entity (resolution 61/39). This report will respond to those requests.

II. Background

4. I last reported to the Security Council on this issue in 2004, when I articulated a common language of justice for the United Nations, incorporating concepts of "justice", "rule of law" and "transitional justice" (see S/2006/616, paras. 5-9). My report also set out the normative foundation for our assistance, namely the Charter of the United Nations, together with the four pillars of the modern international legal system — international human rights law, international humanitarian law, international criminal law and international refugee law — and the wealth of United

Nations human rights and crime prevention and criminal justice standards. These universally applicable standards serve as the normative basis for all United Nations activities in support of justice and the rule of law. As I stated in my "In larger freedom" report (A/59/2005, para. 128), the protection and promotion of the universal values of the rule of law, human rights and democracy are ends in themselves. They are also essential for a world of justice, opportunity and stability.

5. Since the 2004 report, there have been important developments. In 2005, the Heads of State and Government attending the General Assembly World Summit identified rule of law as one of four key areas that demanded greater attention. Member States reaffirmed their commitment to an international order based on the rule of law and international law because it is essential for peaceful coexistence and cooperation among States (resolution 60/1, para. 134 (a)). In addition, Member States recognized that rule of law was equally essential for sustained growth, sustainable development and the eradication of poverty and hunger (para. 11).

6. In addition, clear and unambiguous language was accepted by all Governments concerning the responsibility to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity. The international community also accepted its role to take collective action, through the Security Council, in accordance with the Charter of the United Nations, to help such populations, should peaceful means be inadequate and national authorities are manifestly failing to protect their populations from the above crimes (para. 139). Since then, the Security Council referred the situation in Darfur to the International Criminal Court. The Court also commenced its first trial in the context of the Democratic Republic of the Congo. Legal protection was also enhanced by the newly established Human Rights Council's adoption of the International Convention for the Protection of All Persons from Enforced Disappearance.[1] Also significant is the entry into force on 22 June 2006 of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (resolution 57/199, annex). The Optional Protocol creates the Subcommittee on Prevention and allows in-country inspections of places of detention to be undertaken in collaboration with national institutions.

7. With regard to the Organization, it is consistently integrating rule of law and transitional justice issues into the strategic and operational planning of new peace operations. Member States now almost universally recognize the re-enforcement of the rule of law as an important aspect of peace missions in order to achieve sustainable peace and security. As a result, the Security Council is more prepared than previously to include human rights, policing,[2] judicial and legal systems and prison system responsibilities in mandates. Currently, the Council has mandated the deployment of more than 15,000 United Nations police officers in 17 peace operations. Intergovernmental budgetary bodies and donor countries more frequently fund rule of law initiatives in both post-conflict and development settings. Since 2003, the Secretariat has planned, selected and deployed police, judicial and corrections components in virtually all new missions: previously,

[1] *Official Records of the General Assembly, Sixty-first session, Supplement No. 53* (A/61/53), chap. II.A, resolution 1/1.

[2] The term "policing" or "police" as used in this report includes all national security agencies, such as the police and the gendarmerie, that exercise police powers, especially the powers of arrest and detention.

judicial and prison system reform aspects were rarely found outside of executive missions. The peacekeeping mission planning template includes police, judicial and prison reform elements that are closely associated with other key components, including human rights.

8. The list of guidelines, manuals and tools developed by the 2002 Task Force for the Development of Comprehensive Rule of Law Strategies for Peace Operations of the Executive Committee on Peace and Security has been updated, and the Department of Peacekeeping Operations, the United Nations Office on Drugs and Crime (UNODC) of the Secretariat, the Office of the United Nations High Commissioner for Human Rights (OHCHR), the United Nations Development Programme (UNDP) and the United Nations Children's Fund (UNICEF) continue to develop lessons learned studies and guidance materials in the areas of police, prison systems, legal and judicial systems and transitional justice. There are well-populated rosters of qualified judicial and prisons staff, and there are currently very few vacancies in the field. Since 2004 considerable work has been done to ensure that the Organization identifies the most effective approaches and provides a full range of tools to ensure that rule of law activities incorporate gender considerations and ensure the participation of women. Several departments, funds and programmes, such as OHCHR, UNDP, the United Nations High Commissioner for Refugees (UNHCR), UNICEF and the United Nations Development Fund for Women (UNIFEM) have staff dedicated to gender equality programming and gender mainstreaming at Headquarters and in the field.

9. Despite these substantial steps forward, much remains to be done with regard to our capacities, coherence and coordination efforts.

III. Existing roles and capacities

A. Background

10. Supporting Member States to strengthen the rule of law is central to the work of the United Nations system and its many departments, funds and programmes. Within the Organization, there is considerable breadth to our rule of law activities.[3]

11. The Office of Legal Affairs of the Secretariat is responsible for the establishment of, and operational support for, international and internationally assisted criminal tribunals and provides advice to other international judicial accountability mechanisms and commissions of experts and inquiry. In addition, the Office has taken the lead within the United Nations system in providing training programmes for national authorities and others aimed at the promotion of international law generally.

12. In its missions, the Department of Peacekeeping Operations of the Secretariat leads on support to policing and supports other rule of law-related aspects of peacekeeping operations, such as justice and legal systems and prison systems. It also convenes the United Nations Rule of Law Focal Point Network, a mechanism for coordinating rule of law strategies for peace operations.

[3] For a detailed overview of rule of law activities undertaken at the Headquarters level, see document S/2004/616, para. 12.

13. The Office of the United Nations High Commissioner for Human Rights takes the lead within the United Nations system on the promotion and protection of human rights, including transitional justice. OHCHR provides support and guidance on transitional justice issues, including the development of policy tools and assistance in the design, establishment and implementation of transitional justice mechanisms. The rule of law-related initiatives of OHCHR include activities to enhance the ratification of human rights treaties, improve the administration of justice at the national level and record violations, including through mechanisms created by the Human Rights Council, in areas such as arbitrary detention, independence of the judiciary and torture. OHCHR also provides expert support for international commissions of inquiry and the establishment and strengthening of national human rights institutions.

14. The United Nations Office on Drugs and Crime promotes efforts to combat trafficking, transnational organized crime, money-laundering, corruption and terrorism in line with the relevant international instruments. UNODC also, as custodian of international standards on crime prevention and criminal justice, assists States in the reform and strengthening of their criminal justice systems. The United Nations Children's Fund works to ensure that children are better served by justice systems that provide greater protection for victims, witnesses and offenders. Programmes focus on legal and policy reform for the incorporation of child justice standards; institutional capacity-building of law enforcement, justice and social welfare sectors in support of improved justice for children (including transitional justice mechanisms); the establishment of diversion programmes; and increased public awareness, dialogue and support for justice for children. The Department of Political Affairs of the Secretariat works on incorporating transitional justice elements in conflict resolution and management, while its Electoral Assistance Division is responsible for electoral matters.

15. The United Nations Development Programme supports national capacities with regard to administration of formal and informal justice systems with a view to sustainable development from a long-term perspective and has a general ability to mobilize resources, at both the global and the regional level. It is becoming engaged in transitional justice programmes and support to restructuring and capacity development of the police, security sector reform programmes and prison reform. The United Nations Development Fund for Women assists in developing programmes and strategies that focus on ensuring gender equality and gender justice in peace processes as well as rehabilitation and reconstruction processes. The Office of the United Nations High Commissioner for Refugees works towards the establishment of coherent national asylum systems based on law, securing access of refugees and internally displaced persons to justice during their displacement as well as in the context of return operations in order to create an environment conducive to the safe and sustainable return of refugees and internally displaced persons. It also contributes to the prevention and reduction of statelessness by providing legal and technical advice to States and contributes to the adoption of standard-setting instruments at the global and regional levels.

B. Dedicated capacities

1. Headquarters

16. At the Headquarters level, United Nations rule of law personnel address a variety of rule of law and transitional justice issues emerging throughout the conflict, peacemaking, peacekeeping and post-conflict peacebuilding phases, as well as in long-term development contexts. They are called upon to develop coherent rule of law doctrine and policy, provide strategic advice and guidance to my representatives in the field, provide technical rule of law and transitional justice support to peace operations, recruit field staff, assess and plan activities for post-conflict peace operations and engage the broader international community, including bilateral and multilateral donors, aid agencies, non-governmental organizations and private foundations, to support such efforts. In addition, they are responsible for interacting with those departments, funds and programmes which conduct rule of law activities and whose headquarters are away from New York. United Nations personnel also develop guidance and disseminate good practices with regard to the strengthening of national justice systems and institutions in both post-conflict and development contexts.

2. The field

17. The United Nations often acts as focal point in support of the coordination of international assistance to the various rule of law and transitional justice areas. In the field, the United Nations expertise needed depends on several factors, including the host country's legal system, the causes and scope of conflict, the level of political will, the strength of institutions, cultural influences, the presence of traditional and customary systems and the degree to which the rule of law had traditionally constituted the basis of governance prior to the conflict.[4] In addition to technical assistance, training and support, host country institutions in conflict and post-conflict situations often require substantial material and financial assistance. This can take the form of capital improvements, such as the rehabilitation of police facilities, courts and prisons. United Nations trust funds may be utilized to channel timely support to weak police, judicial and prison systems. In development contexts, United Nations support focuses on strengthening national systems in line with international human rights standards.

3. Analysis of capacities

18. In order to provide the Organization, the Peacebuilding Commission and Member States with a sense of the resources that may be called upon when devising an international peacebuilding strategy for a given country-specific situation, in 2005, an internal mapping was undertaken of existing peacebuilding capacities in the Organization, both at Headquarters and in the field. The mapping focused on four broad areas, including the rule of law.

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[4] Expertise can cover electoral assistance, police administration, internal investigations, court administration, legal drafting, judicial accountability, vetting, truth-seeking processes, prison management, reparations, prosecutions, international and mixed tribunals, legal training, land and property rights, international humanitarian, human rights and refugee law, constitutional law, institution-building, public administration reform and so on.

19. The conclusions of the mapping exercise with regard to our dedicated rule of law expertise in the peacebuilding context, including our police, judicial, prison and transitional justice expertise, were consistent with these general findings. The mapping indicated that, considering how relatively high profile the rule of law area is, the modesty of United Nations human resources capacity was striking, especially at Headquarters.

20. Much attention has been devoted over the past decade to improving our peacebuilding knowledge and capacity. Communities of practice, sharing knowledge, experience and good practice have been established, but more work is needed to ensure institutionalized capacity within the United Nations. Our internal mapping has shown that the Organization is weak in institutionalizing and retaining best practice, expertise and staff. Despite the vast range of peacebuilding activities and the practical experience our staff have gained in the field, the ability of the Organization to reliably draw upon or improve our knowledge base has been insufficient.

21. The paucity of expertise at Headquarters and in the field and our present limited capacity to retain meaningful institutional memory has led many United Nations actors to turn to non-United Nations actors to fill the gaps. This external expertise is invaluable because such partnerships can only enhance and enrich our work. Nevertheless, an overreliance on outside capabilities at the expense of building and retaining institutional capacity within the Organization may undermine our goal of ensuring high quality, accountable and predictable expertise to Member States.

C. Guidelines and other materials

22. Since 2004, United Nations departments, funds and programmes have made considerable efforts to supplement existing rule of law materials, focusing on tools that support our limited knowledge base and capacities in the field. These guidelines and manuals cover a broad range of subjects, including the judiciary, transitional justice, criminal law and general legislative assistance and reform, and police, prisons systems and housing and property issues.

23. As the United Nations system's point of entry for interaction with the International Criminal Court, the Office of Legal Affairs provides advice to other entities of the United Nations system in initial contacts between United Nations actors and the Court to ensure that policies set out by the Office are followed.

24. The Department of Peacekeeping Operations has developed directives for all heads of police components and specific directives on use of force, as well as policies and guidelines on the reform, restructuring and rebuilding of the police, internal evaluations, the functions and organization of formed police units and census and identification of police officials. A handbook for United Nations police officers has also been developed and specific policies on vetting and training of police officers and the assessment of policing are being developed. The Department has also developed lessons learned studies and guidance materials in both the prisons and judicial areas. A *Prison Support Policy Directive* and *Prison Support Guidance Manual* provide best practice guidance concerning the principles, planning, management operations and technical requirements for the support of national prison systems within United Nations peacekeeping operations. The *United*

Nations Primer for Justice Components in Multidimensional Peace Operations: Strengthening the Rule of Law provides advice and guidance for justice sector field officers. Designed as a practical guide, it describes central functions, approaches and techniques as well as priority areas and activities for technical assistance, including guidance on how to build relationships and linkages. The *Primer* is the first manual in a planned series of guidance materials in the field of judicial and legal reform. The Department has also established and facilitates an electronic *Rule of Law Community of Practice*, which includes primarily police, judicial and prison officers who serve as a forum for information, experience and resource exchange, in particular for field operations. The *Gender Resource Package* developed by the Department provides a basic tool for ensuring that considerations are integrated into rule of law-related activities.

25. In 2006, OHCHR produced guidelines identifying best practices in the area of transitional justice. The *Rule of Law Tools for Post-Conflict States* are designed to ensure sustainable, long-term institutional capacity within United Nations field presences, transitional administrations and civil society on relevant transitional justice issues. The five tools outline the basic principles involved in mapping the justice sector, undertaking national prosecution initiatives, creating truth commissions, vetting public officials and monitoring legal systems. Additional tools on maximizing the legacy of mixed courts and best practices with regard to reparations programmes will be published shortly. In addition, OHCHR supported several standard-setting exercises, including the finalization of the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law (General Assembly resolution 60/147, annex) and the Updated Set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity (E/CN.4/2005/102/Add.1). OHCHR also prepared a study on the scope and content of the right to the truth (E/CN.4/2006/91). OHCHR, in consultation with other entities of the Organization, civil society and other stakeholders, has also studied and analysed the transitional justice activities undertaken by the human rights components of the United Nations.

26. UNDP has developed guidelines on vetting and institutional reform and a series of policy documents, handbooks and tools on security sector reform, access to justice, gender justice, the human rights-based approach to development programming, citizen security and work to combat corruption. UNHCR has developed material on addressing housing, land and property issues in the initial stages of a peace operation. It also developed a handbook on nationality and statelessness in cooperation with the Inter-Parliamentary Union, and is currently updating its *Handbook for Registration*. UNICEF has developed materials on children and transitional justice, compilations of good practices and global indicators on juvenile justice, applicable in post-conflict as well as development contexts. UNODC is updating its *Compendium of United Nations Standards and Norms in Crime Prevention and Criminal Justice*, which covers different areas of the criminal justice system and the revised edition of which will be published in early 2007. Drawing, inter alia, on these instruments, UNODC has developed a comprehensive *Criminal Justice Assessment Toolkit*, which consists of a series of 16 assessment tools covering the whole criminal justice system. These tools have been designed to enable United Nations actors engaged in criminal justice reform to conduct comprehensive assessments of criminal justice systems, to identify areas of

technical assistance and to assist United Nations actors in the design of interventions that integrate United Nations standards and norms, including in post-conflict situations. Recently, UNODC developed a *Handbook on Law Enforcement Responses to Violence against Women*, which is applicable in post-conflict environments.

27. Many of these guidelines and tools have been developed through collaborative efforts. For example, OHCHR collaborated with UNDP on the development of a rule of law tool on vetting (screening out individuals associated with past abuses); United Nations actors provided input and support to the development of the Department of Peacekeeping Operations prison policy, judicial and corrections guidance materials, and judicial and corrections lessons learned studies; the Office of Legal Affairs, the Department of Peacekeeping Operations, OHCHR, UNODC and UNDP are collaborating in the development of the United Nations rule of law index; and UNODC developed its *Criminal Justice Assessment Toolkit* with the cooperation of the Department of Peacekeeping Operations, UNDP, UNICEF and various other United Nations actors. UNODC and UNICEF are jointly publishing a manual for the measurement of juvenile justice indicators and are collaborating on materials to promote the use of new United Nations guidelines on matters of justice involving child victims and witnesses.

28. Despite the wide range of materials being produced by the United Nations, there is no formal process in place for the Secretariat to endorse materials to ensure coherence in doctrine or approach and to avoid overlap. The absence of quality control results in the development of guidelines and materials that no other part of the Organization is obligated to use. Where relevant guidelines are used, consensus on content, training methodology, expertise utilized and the evaluation and monitoring of their implementation is absent.

IV. Approaches to coordination

A. Background

29. In 2002, the Task Force for the Development of Comprehensive Rule of Law Strategies for Peace Operations of the Executive Committee on Peace and Security met over a three-month period to consider how the Criminal Law and Judicial Advisory Unit of the Department of Peacekeeping Operations could best mobilize and apply existing expertise/resources within the United Nations system to provide the necessary support to peace operations on rule of law issues. Among other things, the Task Force recommended the establishment of a network of rule of law focal points within relevant United Nations departments and agencies to provide ongoing and direct support to the Unit in the broader effort to sustain an integrated approach and comprehensive strategy for dealing with rule of law issues in peace operations.

30. In its report, the Task Force recommended that focal points be appointed by departments and agencies with substantial expertise/programmes dealing with rule of law-related matters in peace operations and post-conflict settings and stated that initially all of the departments and agencies represented on the Task Force should designate such focal points.[5] The Executive Committee agreed with the

[5] The designated members of the Task Force included the Office of Legal Affairs, the Department

recommendations of the Task Force and in 2003 the heads of the relevant departments and entities designated focal points.

B. Coordination at Headquarters

31. Since 2003, the United Nations Rule of Law Focal Point Network has been meeting on an as-needed basis. Attendance is most often limited to a core group of departments. Although it was intended as a mechanism to support the Criminal Law and Judicial Advisory Unit, the Network has mainly operated to share information on policy development and rule of law activities, including assessment missions, workshops and conferences. Some members of the Network have provided support to the Unit and to peace operations on rule of law issues. For example, the Department of Peacekeeping Operations and OHCHR undertook joint training of human rights and legal and judicial affairs officers in monitoring the justice system in Liberia and OHCHR and UNDP have participated in interviews of some legal and judicial affairs staff for peace operations, although this sort of assistance remains ad hoc. UNODC also carried out several programming and assessment missions to United Nations peace operations at the request of the Department of Peacekeeping Operations. Despite the best efforts of those actively engaged in the Focal Point Network, three years on, the Network has not played the full role envisaged for it by the Task Force and endorsed by the Executive Committee on Peace and Security, primarily as a result of the lack of dedicated capacity within the United Nations system on rule of law issues.

32. In addition to the focal point network, interdepartmental task forces have been established to coordinate the planning of peace operations, including rule of law and transitional justice aspects. OHCHR and UNHCR have each entered into distinct agreements with the Department of Peacekeeping Operations outlining their coordination and joint approaches on human rights and refugee issues in peacekeeping. In other contexts, the Office of Legal Affairs has coordinated training programmes for Member States on the implementation of international agreements and obligations with the participation of OHCHR, UNODC, the World Bank and the International Committee of the Red Cross, and the Inter-Agency Coordination Panel on Juvenile Justice coordinates policies, projects and activities among international organizations engaged with national authorities in juvenile justice reform.

C. Coordination in the field

33. In peace operations, rule of law working groups have been established and include United Nations personnel working on police, judicial, corrections, civil affairs, human rights, humanitarian affairs, return of displaced populations and gender issues. In some instances, these working groups are internal bodies of the mission that coordinate approaches to identifying common problems and suggested strategies. In other instances, coordination involves national actors and donors. For example, in Afghanistan, following a number of coordination initiatives, the United

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of Political Affairs, the Department for Disarmament Affairs, the Department of Peacekeeping Operations, the Office for the Coordination of Humanitarian Affairs, the Office of the Special Representative of the Secretary-General for Children and Armed Conflict, OHCHR, UNODC, UNDP, UNHCR and UNICEF.

Nations Assistance Mission in Afghanistan was appointed as focal point to chair the newly established International Coordination Group for Justice Reform. The aim of the Group, which is composed of representatives of the main international donors and United Nations actors involved in justice reform in Afghanistan, is to coordinate international support and assistance to the Government of Afghanistan, enhance the level of information exchange among international donors and agencies, identify gaps, constraints and challenges, facilitate policy discussion and encourage and recommend a more coherent, structured and strategic approach to rule of law programming at the national and provincial levels.

34. By contrast, however, a number of peace operations with rule of law capacity have no coordination mechanisms. In other instances coordination does not include national stakeholders or donors. In certain highly decentralized United Nations actors, there is little or no communication or coordination with Headquarters.

35. In countries without peace operations, OHCHR, UNDP, UNIFEM and other funds and programmes use the country team coordination framework to plan and synthesize rule of law programming. OHCHR and UNDP have had a memorandum of understanding on the implementation of human rights at the country level since 1999. Such planning is aimed in particular at the implementation of the Secretary-General's Action 2 programme to enhance national promotion and protection systems (see A/57/387, para. 51). In addition to these formal mechanisms, much of the coordination work is conducted through informal contacts.

36. Concerning coordination and communication among field operations and between the field and Headquarters, many challenges remain. The internal mapping concluded that the Organization's engagement, approach and coordination at both the Headquarters and the mission levels remained informal and ad hoc, and was poorly harmonized with that of other key external partners (see paras. 18-21 above).

V. Strengthening our capacities, coherence and coordination

37. With a view to strengthening system-wide arrangements for our work on rule of law in the context of peacebuilding, in July 2006 I asked the Working Group on Rule of Law and Justice[6] to prepare options on how best to structure the United Nations rule of law capacity, both at Headquarters and in the field, and to provide recommendations on strengthening United Nations capacities, where warranted, and to address the issue of improving linkages with other actors. Moreover, there was a consensus that any suggested remedies should go beyond the peacebuilding context. To address this issue and to ensure the resolution of chronic problems, which would enable the Organization to be effectively and meaningfully strengthened, the Working Group made recommendations that addressed the Organization's rule of law activities in all of its work.

38. Following the recommendations of the Working Group, I have decided that in order to strengthen and rationalize United Nations capacities, in particular to assist Member States in the rule of law, the primary objectives for the Secretariat and other key United Nations actors should be to significantly enhance coherence and

[6] The Working Group was chaired by an Assistant Secretary-General and consisted of representatives of the Office of Legal Affairs, the Department of Political Affairs, the Department of Peacekeeping Operations, OHCHR, UNODC, UNDP and UNHCR.

coordination across the Organization and with non-United Nations actors, at both the global and the country level, and to increase and deepen required capacity in priority areas of three main "baskets" of rule of law activity: **Rule of law at the international level**; **Rule of law in the context of conflict and post-conflict situations**; and **Rule of law in the context of long-term development**.

39. To achieve these objectives, it was agreed that a division of labour should be established among the key United Nations actors in which designated lead entities would assume clearly defined coordination and other responsibilities for specific areas of rule of law activity.

Rule of law baskets and sectors

40. For purposes of coherence and coordination, the rule of law activities of the Organization can be grouped into three main baskets, as mentioned above. The first basket, **Rule of law at the international level**, includes issues related to the Charter of the United Nations, multilateral treaties, international dispute resolution mechanisms, the International Criminal Court and advocacy, training and education regarding international law.

41. The second basket, **Rule of law in the context of conflict and post-conflict situations**, includes two components, **Transitional justice** and **Strengthening of national justice systems and institutions**. The activities under Transitional justice will include the following: national transitional justice consultation processes, truth and reconciliation processes, reparations, international and hybrid tribunals, national human rights institutions, vetting processes and ad hoc investigations, fact-finding and commissions of inquiry.

42. The second component of **Rule of law in the context of conflict and post-conflict situations** is also the core component of the third basket, on **Rule of law in the context of long-term development**, and comprises activities in the area of Strengthening of national justice systems and institutions. These include work to strengthen legal and judicial institutions (e.g. prosecution, ministries of justice, criminal law, legal assistance, court administration and civil law), policing, penal reform, the administration of trust funds and monitoring. In addition, the following additional priority areas have been identified: customary, traditional and community-based justice and dispute resolution mechanisms; victim and witness protection and assistance; combating corruption, organized crime, transnational crime and trafficking, and drug control; legal education; public law issues (e.g. land and property, registration, national identification, citizenship and statelessness); interim law enforcement and executive judicial functions performed by the United Nations; and security support to national police agencies. So as to ensure coherence, the activities in the final basket, **Rule of law in the context of long-term development**, will closely mirror those activities being undertaken in the context of conflict and post-conflict societies. United Nations human rights standards and norms will be integrated throughout the baskets and sectors.

1. Division of labour

43. The designation of **lead entities** with clearly defined responsibilities is intended to ensure a much higher degree of coherence, predictability and accountability in the delivery of rule of law assistance. Lead entities will be

designated in accordance with their mandates and will not assume exclusive responsibility for the relevant area either at the global or the country level, but will be expected to perform operational, coordination and policy functions and thus, generally at both the global and the country level, will need to ensure that they have adequate capacities that can be provided on behalf of the entire system, taking into account and making best use of existing capacities, expertise and mandates in other United Nations and non-United Nations actors.

(a) Global level

44. At the global level, the lead entities will have the following responsibilities:

- **Support to Member States**, as requested
- **Collaboration with non-United Nations actors**: proactive reaching out to and ensuring systematic collaboration with all relevant non-United Nations actors in the particular area
- **Capacity**: assessing the overall needs and available capacities in the relevant area and taking action to ensure that required capacities and mechanisms exist, including ensuring sufficient staff capacity that the rest of the Organization can draw upon and managing rosters of experts
- **Coordination** through area-specific mechanisms: maintaining close links with other United Nations and non-United Nations actors, including on planning, standards, best practice, advocacy and mobilization of resources
- **Policy development, standard-setting and best practices**, including tools, manuals and methodologies
- **Training** at the international and regional levels, including development of agreed training tools and materials
- **Substantive guidance** to missions and country teams, including support in planning processes

(b) Country level

45. At the country level, in consultation with Member States, the lead entity will have the following responsibilities:

- **Acting as the primary counterpart of national authorities**
- **Identification of key partners** active or interested in the particular country
- **Coordinated planning and strategy development** within the specific area, including needs assessment and analysis
- **Coordination of programme implementation** with all relevant partners within the area and ensuring effective links with other related areas
- **Application of standards**: ensuring that participants are aware of relevant standards and that activities are in line with those standards
- **Training** at the national and local levels and coordination of other actors conducting training in the same area

- **Resource mobilization**: advocate for donors to fund participants to carry out priority activities in the area concerned

46. Though there would be a general presumption that a global lead entity will perform a lead role in the relevant area in States where new rule of law programmes are established, the designation of global lead entities for a particular area will not imply an exclusive implementation role. Lead entities will take into account and draw on the capacities and expertise of other entities. The primary role of the coordination and planning mechanisms led by the resident coordinator or special representative of the Secretary-General or his deputy will be respected and current arrangements for rule of law activities will be reviewed on a case-by-case basis, including by the Rule of Law Coordination and Resource Group referred to below. Among other things, this approach will help avoid the undesirable situation in which two United Nations actors operate separate programmes on the same rule of law topic in the same country. Where more than one United Nations actor has resources to devote to a particular rule of law sector, it will be done jointly, under the authority of the designated lead. Thus, peace operations will have integrated legal and judicial reform programmes and units operating within the same peace operation under a single head. In exceptional cases in which the global lead entity does not have the capacity to perform this role in a particular country, it should be consulted on the arrangements agreed by the United Nations country team and will be expected to perform the global support functions described above.

47. The aim of the proposed approach is to increase predictability while also preserving sufficient flexibility to take into account circumstances at the country level. Disagreements that cannot be resolved at the country level would be referred to the Rule of Law Coordination and Resource Group (see below), in consultation with the resident coordinator or special representative of the Secretary-General and their Headquarters counterparts.

2. Overall coordination

48. In addition to proposing the division of labour described above, I have decided to create a **Rule of Law Coordination and Resource Group**, consisting of the key United Nations actors,[7] which will act as Headquarters focal point for coordinating system-wide attention on the rule of law so as to ensure quality, policy coherence and coordination.[8] It will be designed to work closely with the lead entities and avoid any duplication of their sector-specific coordination and other functions. Much of the day-to-day and field-level coordination would be within baskets as part of a decentralized process. The Group will focus on overall coordination and policy issues and help ensure that the lead entities fulfil their responsibilities. Its specific tasks will include:

(a) Periodically convening the United Nations actors that provide rule of law assistance to discuss rule of law developments and efforts and to share information;

[7] The Office of Legal Affairs, the Department of Peacekeeping Operations, OHCHR, UNODC, UNDP, UNIFEM and UNHCR.

[8] When requested by Member States, the Rule of Law Coordination and Resource Group will also coordinate our constitutional assistance.

(b) Maintaining a clearing house of information about who in the Organization provides what rule of law assistance as an information resource for those inside and outside the United Nations;

(c) Acting as a resource for the Peacebuilding Commission and Peacebuilding Support Office;

(d) Helping to ensure that the Organization responds, effectively and coherently, to requests from States for assistance, in close collaboration with lead entities;

(e) Providing policy direction by the preparation of policy papers, in conjunction with relevant lead entities;

(f) Mediating disagreements among United Nations rule of law assistance providers that cannot be solved at the sector or country level and, if necessary, presenting such disputes to the Secretary-General for decision, including through the Policy Committee;

(g) Assisting in the development of overall strategies for rule of law assistance;

(h) Acting as a repository for the Organization's rule of law materials and best practices, including the identification and endorsement of core rule of law materials, and establishing and managing Web resources;

(i) Facilitating contact between United Nations actors involved in rule of law programming and Member States, regional and intergovernmental organizations, donors and non-governmental organizations;

(j) Maintaining a global roster of professionals in the rule of law field;

(k) Supporting the promotion of the rule of law in international relations;

(l) Assisting in the mobilization of resources.

49. The Group will be supported by a secretariat unit of up to four Professional staff, to be seconded from key United Nations actors during the initial phase. The Group will be chaired and supervised by the Deputy Secretary-General. The decision as to where the Group is located will be addressed by the incoming Secretary-General. Given the broad remit of the new entity, it would not be appropriate to place it within the Peacebuilding Support Office.

50. Once established, the Rule of Law Coordination and Resource Group will lead a consultative process with Member States and other relevant partners to identify priority gaps in capacity of the United Nations that need to be filled in the rule of law area and will recommend where and by when those capacities should be established. This review must take account of the fact that the Organization does not need to be engaged in all areas of rule of law activity. It needs to truly prioritize the entry points since there is much room for other key non-United Nations actors. In addition, the Group will coordinate the request from the General Assembly for the preparation of an inventory of current activities of the Organization devoted to the promotion of the rule of law at the national and international levels (resolution 61/39, para. 2). The Group will also give consideration to recommending the creation of a rule of law trust fund for the whole system to draw upon.

VI. Final observations

51. In this report, I have set out practical measures the United Nations system will take to enhance its arrangements for supporting the rule of law and transitional justice activities of the Organization. I have identified those priority areas in which it will deliver high-calibre advice and assistance to Member States, in partnership with other non-United Nations actors. The Organization will continue to increase and deepen its capacity in priority areas of rule of law activity identified in this report.

52. My decision to significantly enhance coherence and coordination across the Organization through the designation of baskets and a division of labour will ensure a much higher degree of predictability and accountability in the delivery of rule of law assistance to Member States. In addition, the creation of a robust coordination mechanism, led by a senior United Nations official, will ensure quality control, policy coherence and meaningful coordination within Headquarters and with our field operations. With a robust coordination mechanism in place and with the assistance of the lead entities, the Organization will be able to ensure that we begin a process in which we retain and build on our institutional memory in the rule of law.

53. As Member States have reaffirmed their commitment to the rule of law as an all-important framework for advancing human security and prosperity, I too reaffirm the commitment of this Organization to support Member States to ensure that fair and effective national legal, judicial, prison and police institutions are in place so that societies emerge from a violent past. I believe that my decision to ensure that the Organization has a core United Nations cadre of rule of law expertise, coupled with meaningful and robust coordination, can only benefit Member States in their recommitment to an international order based on the rule of law. Moreover, I am convinced that the investment by Member States to increase the capacity of the Organization to support their efforts to uphold the rule of law will contribute significantly to peace and security, as well as to sustainable development.